

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

REC'D 12 OCT 2005

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To:

see form PCT/ISA/220

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/IB2005/000641

International filing date (day/month/year)
18.02.2005

Priority date (day/month/year)
20.02.2004

International Patent Classification (IPC) or both national classification and IPC
B41J11/00, B41J21/16

Applicant
ESSELTE

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☒ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/IB2005/000641

Box No. 1 Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/IB2005/000641

Box No. IV Lack of unity of invention

1. ☒ In response to the invitation (Form PCT/ISA/206) to pay additional fees, the applicant has:
- ☐ paid additional fees.
 - ☐ paid additional fees under protest.
 - ☒ not paid additional fees.
2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rule 13.1, 13.2 and 13.3 is
- ☐ complied with
 - ☒ not complied with for the following reasons:
see separate sheet
4. Consequently, this report has been established in respect of the following parts of the international application:
- ☐ all parts.
 - ☒ the parts relating to claims Nos. 1-11,13,14

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	2-11,14
	No: Claims	1,13
Inventive step (IS)	Yes: Claims	
	No: Claims	1-14
Industrial applicability (IA)	Yes: Claims	1-14
	No: Claims	

2. Citations and explanations

see separate sheet

IV Lack of unity of invention

The subject matter common to all claims is none.

The application lacks unity within the meaning of Rule 13.1 PCT because the independent claims represent technically different solutions to unrelated problems. The special technical features and corresponding objective problems of the separate inventions are :

- 1 Claims 1-11, 13, 14 : OBJECTIVE PROBLEM : ensure correct operation of the printer (page 10 lines 8-12); SOLUTION : means for detecting markings; and means for determining at least one of a spacing between two markings and a width of a marking, comparing the determined marking width and/or spacing with a respective reference value and for causing printing to be stopped if at least one of the determined spacing and/or width differs from the respective reference value by more than a predetermined amount;
- 2 Claim 12 : OBJECTIVE PROBLEM : image receiving material as such; SOLUTION : image receiving material as such (Note : the manner in which the material may subsequently be "provided" or "used" does not constitute a technical feature of the image receiving material as such, Article 6 PCT);
- 3 Claim 15 : OBJECTIVE PROBLEM : juxtaposition of a bar code reader and a printer; SOLUTION : means for detecting said markings; and means for sending information relating to said detected marking to a computer for processing;
- 4 Claim 16 : OBJECTIVE PROBLEM : identifying label stock; SOLUTION : a bar code on the backing layer of the image receiving material;

Since the special technical features are neither identical nor corresponding (i.e. they cannot function in an equivalent, complementary or cooperative manner with the special technical feature(s) of another invention or are not specially adapted to a special technical feature of another invention), there are no corresponding special technical features shared by all independent claims of the invention.

Therefore, the above groups of inventions are not so linked as to form a single general inventive concept (Rule 13.1 PCT).

Accordingly, the incomplete search report has been drafted for the first invention and the applicant is invited to pay additional search fees.
In case the applicant prefers not to pay the additional fees but prefers to restrict the application instead, a possible manner of restricting the application, would be to delete the claims not forming part of the first invention.

V Statement concerning novelty, inventive step & industrial applicability

Invention 1 : Claims 1-11, 13, 14

1 Article 6 PCT :

- 1.1 Although claims 1 and 13 have been drafted as separate independent claims, they appear to relate to the same subject-matter and to differ from each other only with respect to the terminology used for the describing the "printer" as a "printer system" !. The aforementioned claims therefore lack conciseness and as such do not meet the requirements of Article 6 PCT.
 - 1.2 Claims 1 and 13 are not clear : The properties (eg being provided on a backing layer or not) of an image receiving material which may or may not be used with a printer (system) cannot be used to characterise the printer (system).
The printer (system) can only be described in terms of technical features of the printer (system) as such.
 - 1.3 Claim 3 is not supported by the description : according to the description (page 7 line 10), the light sensitive receiver comprises a photo transistor and not a light emitting diode.
 - 1.4 Claim 7 lack the essential feature of a "display 40" (page 8 paragraph 3).
- 2 Document D1 = US-A-2004 001 131 (see especially paragraphs 9,10,22,23,37,38, figures 3-6) discloses a printer (system) (figure 3) for printing an image on an image receiving material, said printer (system) comprising:
means (32) for detecting regularly spaced markings (figures 4 and 5) provided on the back of the image receiving material; and
means for determining at least one of a spacing between two markings and a width of a marking, comparing the determined marking width and/or spacing with a respective reference value and for causing printing to be stopped if at least one of the determined spacing and/or width differs from the respective reference value by more

than a predetermined amount.

Similar printers are disclosed in each of D2 = JP-A-2000 168 180 (see especially abstract and figures), D3 = JP-A-2000 141 775 (see especially abstract and figures). Insofar as it could be understood, the subject matter of claims 1 and 13 does not differ from any of the above. Claims 1 and 13 are not new.

Therefore, insofar as it could be understood, the subject matter of independent claims 1 and 13 does not satisfy the criteria set forth in Articles 33(2) PCT.

- 3 The additional features of dependent claims 2-11,14 only concern minor modifications, which must be regarded as normal design steps for the person skilled in the art. A combination of any of the features of dependent claims 2-11,14 with claim 1 or 13 would not appear to add anything inventive (Article 33(3) PCT) and therefore does not seem to form a suitable basis for a new claim.

In particular,

D4 = EP-A-1 362 706 (see especially paragraph 24) discloses that the detecting means comprises a light emitting diode and a photo transistor (cf claims 2-4).

D4 (see especially paragraph 20) and D3 (see especially figure 4) discloses that the determining means comprises a processor (cf claim 5).

D3 (see especially figures 1, 3 and 5) discloses the combination of a printer (figure 3) and an image receiving material (figure 1 and 5) provided on a backing material with regularly spaced markings (12, 13) provided on the back of the backing material (16), wherein said image receiving material comprises die cut labels (17) (cf claims 10 and 11).